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4 PETER NEWSOM, *et al.*  
5

6 Plaintiffs  
7

8 v.  
9

10 BANKERS ALLIANCE INC., *et al.*  
11

Defendants

12 Case No.:[4:09-cv-05288-SBA](#) (NJV)  
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14 **ORDER REQUIRING FURTHER  
15 BRIEFING ON PLAINTIFFS' SECOND  
16 MOTION FOR DEFAULT JUDGMENT**

17 Re: Dkt. No.: 121.  
18

19 Plaintiffs Peter and Stephanie Newsom have filed a second motion for default judgment  
20 against defendants Julie Whiteside and Bankers' Alliance, which the district court referred to the  
21 undersigned. Doc. Nos. 121 & 122 On January 17, 2013, Julie Whiteside filed an opposition to  
22 Plaintiffs' motion for default judgment. Doc. No. 130.<sup>1</sup> A hearing on Plaintiffs' motion has been  
23 set for February 26, 2013.

24 In anticipation of the hearing, the undersigned orders the parties to file the following  
25 declarations, under oath, on or before February 5, 2013:

26 Julie Whiteside shall address the following issues:

27 1. The date, location, manner and detailed content of all of her communications with any  
28 attorney who has represented Plaintiffs.

2. The address(es) at which she has resided or received mail since 2009.

3. Her relationship, if any, with Jamie Pantuso and/or the residence located at 2762

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1 Filbert Street in San Francisco.

2 4. How she learned that she was still a participant in this lawsuit in time to file her  
3 opposition to the motion for default judgment (Doc. No. 130).  
4 5. Any prejudice she would suffer if the district court were to allow the case to proceed  
5 against her at this time.

6 Plaintiffs' counsel, Michael Rooney, shall address the following issues:

7 1. Why he failed to attempt serve Whiteside within the thirty-day time frame ordered by  
8 the district court in its September 5, 2012 order. *Compare* Doc. No. 109, *with* Doc.  
9 No. 114.  
10 2. How he determined that Whiteside should be served at 2762 Filbert Street in San  
11 Francisco rather than at the address at which he had previously successfully served  
12 Whiteside (1212 Stearns St. in Los Angeles). *See* Doc. 131; *see also* Doc. No. 121, Ex.  
13 10. Counsel should address why he believed that "Joanne M. Whiteside" was, in fact,  
14 Julie Whiteside and why Mr. Pantuso was Ms. Whiteside's brother-in-law. In  
15 particular, counsel should explain how he determined service there was proper given  
16 Mr. Pantuso's representation to the process server on October 22, 2012, that he had  
17 "never heard of [Whiteside] before." Doc. No. 121, Ex. 10.  
18 3. The date, location, manner and content of all of his communications with Whiteside,  
19 including any representations by Whiteside that she would not defend the action.  
20 4. How counsel determined that Whiteside "understood the case was pending against her"  
21 when he deposed her. Doc. No. 101.  
22 5. The factual basis for his representation to the district court that "Whiteside could not be  
23 found for the majority of this case, despite all good faith efforts by counsel to do so.  
24 Julie Whiteside had moved several times." Doc. No. 106.  
25 6. How counsel calculates Plaintiffs' damages (\$193,985.06), identifying each category  
26 of damage and setting out the calculation of each category. The undersigned notes that  
27 this is the identical amount Plaintiffs requested in their first motion for default  
28 judgment, and subsequently revised after this court ordered further briefing on the issue

1 of damages. *Compare* Doc. No. 95 at 3 (seeking \$63,939 in closing costs), *with* Doc.  
2 No. 41 at (seeking \$41,408 in closing costs).

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4 IT IS SO ORDERED.

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6 Dated: January 22, 2013

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Nandor J. Vadas  
United States Magistrate Judge